

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANTHONY MARTLE	:	
and	:	
DIION KENDELL BROWN	:	Civil Action No. 02-5177
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
DARIUS ARCHIBALD	:	
and	:	
NICHOLAS KEMPF, SR.	:	(PCCP July Term, 2002)
and	:	(No. 000641)
UNITED STATES POSTAL SERVICE	:	
Defendants,	:	
	:	

ORDER

AND NOW, this _____ day of _____, 2002,
upon consideration of the Motion of defendant, the United States
of America, for a Forty-Five Day Enlargement of Time to Answer
the Complaint of plaintiffs Anthony Martle and Dion Kendell Brown
and for good cause shown, it is hereby ORDERED that the motion is
GRANTED, and the response of defendant, the United States of
America, is due September 14, 2002.

BY THE COURT:

Honorable Harvey Bartle, III
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANTHONY MARTLE	:	
and	:	
DIION KENDELL BROWN	:	
	:	
Plaintiffs,	:	
	:	Civil Action No. 02-5177
v.	:	
	:	
DARIUS ARCHIBALD	:	
and	:	
NICHOLAS KEMPF, SR.	:	(PCCP July Term, 2002)
and	:	(No. 000641)
UNITED STATES POSTAL SERVICE	:	
Defendants,	:	
	:	

MOTION OF THE UNITED STATES OF AMERICA
FOR A FORTY-FIVE DAY ENLARGEMENT OF TIME TO RESPOND
TO THE COMPLAINT OF PLAINTIFFS

1. The undersigned counsel of record respectfully requests a forty-five day enlargement of time within which to file a response to the complaint of defendants Anthony Martle and Dion Kendell Brown. The United States of America's response is due on July 31, 2001.

2. Martle and Brown filed a Complaint against Nicholas Kempf, Sr. an employee of the United States Postal Service and the United States Postal Service in the Court of Common Pleas in Philadelphia County, Pennsylvania, captioned Anthony Martle and Dion Kendell Brown v. Darius Archibald and Nicholas Kempf, Sr. and United States Postal Service, Court of Common Pleas of Philadelphia County, No. 000641 (July Term, 2002).

3. Plaintiffs allege that Nicholas Kempf, Sr. and the United States Postal Service are "solely liable and/or jointly and severally liable to plaintiff and/or liable over [Martle and Brown]."

4. Martle and Brown allege that Nicholas Kempf, Sr. and the United States Postal Service are liable to them based upon a negligence theory. Plaintiffs allege that, on or about September 26, 2001, they were injured when Kempf was operating his vehicle and suddenly attempted to change lanes causing a collision between his vehicle and the vehicle operated by Darius Archibald.

5. This action may only proceed against the United States of America and its agencies and institutions through the provisions of the Federal Tort Claims Act, 28 U.S.C. § 2679; therefore, on July 24, 2002, the United States of America filed a notice of removal in this action from the Court of Common Pleas of Philadelphia County, Pennsylvania pursuant to 28 U.S.S 679(d).

6. Rule 81(c) of the Federal Rules of Civil Procedure provides an abbreviated period of time for the United States of America to respond to a complaint upon removal -- in this case, twenty days. The United States has been investigating this matter diligently; however, it will require the amount of time permitted in Rule 12(3) (A) of the Federal Rules of Civil Procedure. Rule 12(3) (A) reads that "[t]he United States ...

shall serve an answer to the complaint... within 60 days after the United States Attorney is served with the pleading asserting the claim." The United States is requesting the amount of time to respond to the complaint for which the federal rules provide if this case had been filed in the appropriate forum.

7. This is the first extension of time requested by the United States of America in this case and the undersigned counsel for the United States of America respectfully submits that there is good cause to grant this motion.

8. The attorney for plaintiffs consent to a thirty day enlargement of time.

WHEREFORE, for the reasons set forth herein, the United States of America respectfully requests that its motion be granted, and that its response to the complaint of plaintiffs be enlarged by forty-five days as requested herein.

Respectfully submitted,

PATRICK L. MEEHAN
United States Attorney

JAMES G. SHEEHEN
Chief, Civil Division

Nuriye C. Uygur
Assistant United States Attorney
The United States Attorney's Office
Eastern District of Pennsylvania
615 Chestnut Street, Suite 1200
(215) 861-8324
Attorneys for the United States

Dated: July 25, 2002

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within MOTION OF THE UNITED STATES OF AMERICA FOR AN ENLARGEMENT OF TIME TO RESPOND THE COMPLAINT OF ANTHONY MARTLE and DION KENDELL BROWN has been served this day, July 25, 2002, by first class mail, postage prepaid, upon the following:

SAMUEL FISHMAN, ESQUIRE
1422 Chestnut Street
Suite 701
Philadelphia, PA 19102

NURIYE C. UYGUR
Assistant United States Attorney